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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,585	09/26/2000	Ulrike Gruening	00P7925US	3643

7590 12/23/2002

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
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EXAMINER

NGUYEN, CUONG QUANG

ART UNIT PAPER NUMBER

2811

DATE MAILED: 12/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

qfm

Office Action Summary	Appli ation No. 09/669,585	Applicant(s) GRUENING ET AL.	
	Examiner Cuong Q Nguyen	Art Unit 2811	

-- The MAILING DATE of this communication app ars on the cov r sh t with the correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____ .
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____ .
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . 6) ☐ Other: ____ .

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support for limitation "the buried portion of the gate is in contact with the first and second diffusion region" in the original specification or in the drawings. As described in page 4 line 20, a dielectric layer (not shown in the figures) lines the STT to serve as a gate dielectric for STT, so the buried portion of the gate can not in contact with the first and second diffusion region.

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for "the gate dielectric in contact with the first and second diffusion regions", does not reasonably provide enablement for "the buried portion of the gate is in contact with the first and second diffusion regions". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with

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these claims. The gate can not in contact with both source/drain regions because it can not function as a switching element in the circuit .

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-20 insofar as in compliance with 35 U.S.C 112 are rejected under 35 U.S.C. 102(e) as being anticipated by Bronner et al. (US 6,037,194).

Regarding claims 1, Bronner et al. discloses a memory cell comprising: a trench capacitor formed in a substrate (205); a shallow transistor trench STT (230) formed in the substrate, wherein the transistor including a first diffusion region (110) couples the transistor to the capacitor, a second diffusion (235) couples the transistor to a bit line

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(290); the gate(225) serving as a word line including a buried portion and a non-buried portion, wherein the buried portion of the gate occupies the STT. See Bronner et al.'s Fig.2.

Regarding claim 2 and 3, as shown in Bronner et al.'s Fig.2, a width of STT is less than a lithographic groundrule and the non-buried portion of the gate is greater than the width of STT. col.4, lines 35-43

Regarding claim 4, as shown in Bronner et al.'s Fig.2, the first diffusion region (110) is located in a region of the substrate between the trench capacitor and STT, and an interface of the STT and the substrate between the first and second diffusion regions formed a channel of the transistor.

Regarding claims 5-8, Bronner et al. teaches that the width of the non-buried portion of the gate is equal to the lithographic groundrule. Col.4, lines 36-42.

Regarding claims 9, 11, Bronner et al. teach that the gate (225) is formed of doped polysilicon and the gate includes a salicide layer (270) on the polysilicon. Col.3 lines 46-50 and col.4 lines 35-40.

Regarding claims 10, 12, as shown in Bronner et al.'s Fig.2, a cap layer (275) formed over the non-buried portion of the gate.

Regarding claims 13-20, as shown in Bronner et al.'s Fig.5, the memory cell further comprises a dielectric layer including an extending portion of dielectric layer (400, a silicon oxide layer. Col.4, lines 13-18) and a dielectric layer (340, an oxide

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layer) on upper portion of the trench capacitor, wherein the dielectric extending to pass an edge of the trench capacitor to a first edge of the STT.

The limitation " the dielectric layer serves as a self-aligned mask to form the STT" in claims 15 and 19 is considered as a "functional language". Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. In re Danley, 120 USPQ 528, 531 (CCPA 1959). "Apparatus claims cover what a device is, not what a device does ."(emphasis in original) Hewlett - Packard Co . v. Bausch & Lomb Inc ., 15 USPQ2d 1525, 1528 (Fed. Cir. 1990).

Response to Arguments

3. Applicant's arguments with respect to claims 1-20 have been considered but are not persuasive.

Applicants argue that Bronner et al. does not teach "the buried portion of the gate is in contact with the first and second diffusion region". In response, as above discussion, this limitation is rejected under 112 first paragraph.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Papers related to this application may be submitted to Technology center (TC) 2800 by facsimile transmission. Papers should be faxed to TC 2800 via the TC 2800 Fax center located in Crystal Plaza 4, room 4-C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 2811 Fax Center number is (703) 308-7722 and 308-7724. The Group 2811 Fax Center is to be used only for papers related to Group 2811 applications.

6. Any inquiry concerning this communication or any earlier communication from the Examiner should be directed to CUONG Q NGUYEN whose telephone number is (703) 308-1293. The Examiner is in the Office generally between the hours of 6:30 AM to 5:00 PM (Eastern Standard Time) Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor TOM THOMAS who can be reached on (703) 308-2772. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722 or 308-7724.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center Receptionists whose telephone number is 308-0956.

A handwritten signature in black ink, appearing to read 'Cuong Nguyen', with a stylized, cursive script.

Cuong Nguyen

December 19, 2002